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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2006 324

JEANNE L. HERMANSEN a.k.a.  
JEANNE L. LOVATO  
1316 South Meadow Lane #293  
Colton, California 92324

**FIRST AMENDED ACCUSATION**

Respiratory Care Practitioner No. RCP 16065

Respondent.

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs (Board). The Accusation in this matter was filed on January 15, 2008.

2. On or about February 26, 1993, the Board issued Respiratory Care Practitioner License Number RCP 16065 to Jeanne L. Hermansen, a.k.a. Jeanne L. Lovato (Respondent). The Respiratory Care Practitioner license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2009, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

6. Section 3750.5 of the Code states:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of Chapter 9 of this code.

". . . ."

7. Section 492 of the Code states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

1                    “This section shall not be construed to apply to any drug diversion program  
2 operated by any agency established under Division 2 (commencing with Section 500) of this  
3 code, or any initiative act referred to in that division.”

4                    COST RECOVERY

5                    8.        Section 3753.5, subdivision (a) of the Code states:

6                    "In any order issued in resolution of a disciplinary proceeding before the board,  
7 the board or the administrative law judge may direct any practitioner or applicant found to have  
8 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
9 investigation and prosecution of the case."

10                  9.        Section 3753.7 of the Code states:

11                  "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
12 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
13 administrative, filing, and service fees."

14                  10.       Section 3753.1 of the Code states:

15                  "(a) An administrative disciplinary decision imposing terms of probation may  
16 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
17 associated with monitoring the probation."

18                  CONTROLLED SUBSTANCE

19                  11.       Methamphetamine is a Schedule II controlled substance pursuant to Health  
20 and Safety Code Section 11055.

21                  CAUSE FOR DISCIPLINE

22                  (Possession of a Controlled Substance)

23                  12.       Respondent is subject to disciplinary action under section 3750.5,  
24 subdivision (a), of the Code in that she possessed the controlled substance methamphetamine.  
25 The circumstances are as follows:

26                  Proceedings in San Bernardino County Superior Court Case No. MSB095816

27                  A.        On or about May 7, 2006, while investigating an unrelated matter, Colton  
28 Police Department Officer E. Reynolds stopped the car Respondent was driving. A

1 computer check revealed that Respondent had an outstanding warrant. While being  
2 placed under arrest for the warrant, Respondent told Officer Reynolds she had a  
3 methamphetamine pipe in her left front shirt pocket. Respondent also admitted that she  
4 was carrying methamphetamine in a plastic baggie in her purse. Officer Reynolds  
5 recovered both the pipe and a plastic baggie which contained a white crystalline  
6 substance. Respondent was rearrested for possession of methamphetamine. Officer  
7 Reynolds ultimately booked the pipe and the baggie which contained the white crystalline  
8 substance into the Colton Police Department evidence locker. The white crystalline  
9 substance in the baggie was later scientifically tested by the San Bernardino County  
10 Sheriffs' Scientific Investigations Division Forensic Science Laboratory and was found to  
11 contain methamphetamine.

12 B. Respondent was charged with possession of a controlled substance,  
13 methamphetamine, in violation of Health and Safety Code section 11377, subdivision (a),  
14 a misdemeanor, in San Bernardino County Superior Court Case No. MSB095816.

15 C. On or about August 13, 2007, pursuant to a Penal Code 1000/Drug Court  
16 Plea Bargain Agreement, Respondent pled guilty to possession of a controlled substance,  
17 methamphetamine. Entry of judgment was deferred for eighteen months and criminal  
18 proceedings were suspended. The court ordered the following terms and conditions,  
19 among others: pay an administrative fee of \$100.00, pay a restitution fee of \$100.00, and  
20 complete a drug diversion program.

21 Proceedings in San Bernardino County Superior Court Case No. MSB707807

22 D. On or about September 27, 2007, Colton Police Department Officer C.  
23 Ward responded to a report of a suspicious vehicle cruising an apartment complex. When  
24 Officer Ward arrived, Respondent was driving around in the parking lot near a dumpster  
25 with her vehicle lights off. Officer Ward observed that Respondent quickly exited her  
26 vehicle while it was running, and attempted to walk away from him. Respondent agreed  
27 to talk to Officer Ward, but she continually placed her hands in her pockets and purse,  
28 after being advised not to do so. After obtaining her permission, Officer Ward searched

1 Respondent's purse and located a plastic baggie of suspected methamphetamine as well  
2 as a glass methamphetamine pipe. Respondent was arrested for possession of a  
3 controlled substance and was transported to the Colton Police Department. Officer Ward  
4 analyzed the substance which tested presumptive positive for methamphetamine.

5 E. On or about November 15, 2007, in San Bernardino County Superior  
6 Court Case No. MSB707807, Respondent was charged with possession of a controlled  
7 substance, methamphetamine, in violation of Health and Safety Code section 11377(a), a  
8 misdemeanor.

9 F. On or about February 1, 2008, pursuant to a Penal Code 1000/Drug Court  
10 Plea Bargain Agreement, Respondent pled guilty to possession of a controlled substance,  
11 methamphetamine. Entry of judgment was deferred for eighteen months and criminal  
12 proceedings were suspended. The court ordered the following terms and conditions,  
13 among others: pay an administrative fee of \$100.00, pay a restitution fee of \$100.00, and  
14 complete a drug diversion program.

#### 15 DISCIPLINE CONSIDERATIONS

16 13. To determine the degree of discipline, if any, to be imposed on  
17 Respondent, Complainant alleges that on or about September 23, 2004, Respondent was issued  
18 Citation No. C-04-0093 by the Board as an administrative penalty for a violation of Code  
19 sections 3750, subdivision (f) and 3755, and California Code of Regulations, Title 16, Section  
20 1399.370, subdivision (a). The Citation was based on the following facts: On or about June 7,  
21 2004, while working as a Respiratory Care Practitioner, the Respondent abandoned her assigned  
22 patients for over three hours by falling asleep in her vehicle. Further, the Respondent did not  
23 document any treatments in her assigned patients' medical records for the entire shift.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner License Number  
5 RCP 16065, issued to Jeanne L. Hermansen, a.k.a. Jeanne L. Lovato;

6 2. Ordering Jeanne L. Hermansen, a.k.a. Jeanne L. Lovato to pay the  
7 Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed  
8 on probation, the costs of probation monitoring; and

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: April 3, 2008

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12 Original signed by:  
13 STEPHANIE NUNEZ  
14 Executive Officer  
15 Respiratory Care Board of California  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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